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IN THE SUPREME COURT OF THE STATE OF IDAHO

IN THE MATTER OF THE ESTATE OF  
ERIC MILO HIRNING,

Docket No. 47449-2019

District Court No. CV-2015-0411

**APPELLANTS' REPLY BRIEF**

Appeal from the District Court of the Seventh Judicial District  
of the State of Idaho, in and for the County of Bingham

---

Honorable Darren B. Simpson  
Bingham County Case CV-2015-0411

Kyle R. May (ISB#: 9819)  
MAY, RAMMELL & WELLS, CHTD.  
P.O. Box 370  
Pocatello, ID 83204-0370  
Telephone: (208) 233-0132  
Fax: (208) 234-2961  
*Counsel for Appellant*

Dwight E. Baker (ISB#: 1350)  
BAKER & HARRIS  
266 West Bridge  
Blackfoot, Idaho 83221  
Telephone: (208) 785-2310  
Fax: (208) 785-6749  
*Counsel for Appellees*

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## ARGUMENT

### **I. THE APPELLEES' ADDITIONAL ISSUES RAISED ON APPEAL IS UNSUPPORTED AND SHOULD BE DISMISSED.**

The Appellees' request for a dismissal of the Appellants' appeal by raising an additional issue. (Respondents' Brief p. 18-20). However, this issue is unsupported and should be dismissed. The Appellants have cited the proper standard of review for the Court to review this case and have properly asked this Court in multiple places throughout their opening brief to reverse the District Court's decision. (Appellants' Brief p. 9, 15, 16-17, 22, 28). In addition, all of the issues raised on appeal relate directly to whether the District Court erred when making its decision. *Id.* at 3. Furthermore, the Appellants did cite the *Losser's* "Matter of Procedure" by citing case law from *Nicholls*, *Ustick*, and *Pope Intermountain Gas*. *Id.* at 5. These cases articulate that the Supreme Court does not review the Magistrate's decision, but it only reviews the District Court's decision by either affirming or reversing the District Court's decisions. *Id.* Since the Appellants have cited and articulated the proper standard and have asked the Court to review the District's Court decision instead of the Magistrate's decision, this Court should respectfully dismiss the Appellees' request for dismissal.

The Appellees not only raise the additional issue above, but also assert that the Appellants have failed to raise any legal issue on appeal. *Id.* at 20-21. They argue that the only issues that have been raised are issues of fact. However, this is incorrect. The Appellants filed a Notice of Appeal raising both questions of fact and law. (R. Vol. I, p. 102, L. 5). Additionally, the Appellants have cited three different standards of review in their opening brief. (Appellants' Brief p. 3-4). These standards are the Clearly Erroneous, De Novo, and the Abuse of Discretion

standard. Throughout Appellants' briefing the Appellants have argued both error in fact and law. Specifically, Appellants have argued that the District Court erred when it affirmed the Magistrate's decision that no error in law occurred relating to the accounting, inventory, and the reasonable sale of the home. (Appellants' Brief p. 14 & 23). It is clear from Appellants' Brief that issues of fact and law have been raised. Appellees' additional issues are unsupported and should be respectfully disregarded by this Court.

**II. THE DISTRICT COURT'S RELIANCE ON PARTS OF JUDGMENT II WAS NOT HARMLESS ERROR AND MATERIALLY PREJUDICED THE ARGUMENTS RAISED BY APPELLANTS.**

Although the Appellees clearly admit that the District Court erred by citing parts of Judgment II, the Appellees still argue that the District Court's reliance on Judgment II was harmless error and the District Court's *Decision and Order* should not be reversed. (Respondents' Brief p. 21-25). This argument is unsupported. Appellants assert that the District Court's reliance on Judgment II was and is materially prejudicial to them. The District Court solely relied on Judgment II to conclude that the Court had conducted findings of facts and conclusions of law relating to the issues of the inventory and accounting. (R. Vol. I, p. 236). When the Appellants filed their Notice of Appeal, briefed the appeal, and argued the appeal there was no Judgment II. (R. Vol. I(generally)). It was obvious to the Appellants when they filed their appeal that the Magistrate erred because there were no findings. After the appeal was closed, Judgment II was created to clean up the Magistrate's errors because it was obvious the Magistrate had failed to conduct findings of facts and conclusions of law relating to the inventory and accounting. According to the District Court, Judgment II perfected the Magistrate's errors because the District Court cited it in its briefing. *Id.* at 236. The Court

specifically cited it to support its holding that the Magistrate conducted findings of facts and conclusions of law. *Id.* at 236. The District Court's reliance on Judgment II led to the District Court eventually holding that the appeal was pursued frivolously, unreasonably, and without foundation. *Id.* at 289. The analysis is easy to determine whether prejudice existed. If one asks but for Judgment II would the District Court have concluded that the Magistrate issued findings of facts and conclusions of law? The answer is clearly no. Obviously, without Judgment II the District Court would have overturned the Magistrate on appeal. A court sitting in an appellate capacity cannot appropriately conduct an appellate review unless it has findings of facts and conclusions of law. *See* Idaho Rules of Civil Procedure 52, *see also State v. Islas*, 443 P.3d 274, 284 (Idaho Ct. App. 2019). The Court obviously cannot analyze or review a decision that does not have these findings. *Id.* Further, if a court cannot analyze or review a decision without findings, it certainly cannot determine whether the Court erred or not. Therefore, it is clear that the Appellants were materially prejudiced.

Judgment II also materially prejudiced the Appellants because if Judgment II was a valid document which included the findings of facts and conclusions of law, the District Court should not have dismissed the Appellants' issue in regards to the timing and adequacy of the inventory. As argued above, the District Court relied on Judgment II to hold that the Magistrate conducted findings of facts and conclusions law relating to the inventory and accounting. (R. Vol. I, p. 236). The findings in Judgment II concluded that the Personal Representatives performed a sufficient inventory for the property owned by decedent, as required by Idaho Code § 15-3-706 and that the Personal Representatives provided a copy of the inventory of the property owned by decedent, to the devisees, as required by Idaho Code § 15-3-706. (R. Vol. I, p. 236). Judgment II proves that

issues of adequacy and timing of the inventory were raised at the trial level. Nevertheless, the District Court held that the Appellants' argument on appeal which raised issues of the adequacy and timing of the inventory were not properly raised and dismissed that issue. (*Id*).

The Appellees' brief also argues that the timing issue cannot be raised on this appeal. The Appellees state, "To the extent Jodi, Cindy and John raise the timing issue here, it should be disregarded under Judge Simpsonson's ruling." (Respondents' Brief p. 26). However, if this Court allows the District Court to rely on Judgment II, the District Court's holding to dismiss this issue would be an error. Judgment II clearly holds that the Magistrate found that the inventory was sufficiently prepared and was timely provided to Cindy, Jodi, and John in accordance with Idaho Code § 15-3-706. (R. Vol. I, p. 210-211, *see also* R. Vol. I, p. 236). These findings by the Magistrate in Judgment II prove that the Appellants' raised the timing and adequacy of the inventory and accounting at the Magistrate level. It is logical to conclude that if such issues weren't raised at the trial level, the trial court would not have made these findings and conclusions.

A party also has a right to appeal a final judgment. *See* Idaho Appellate Rule 11. When a party raises an appeal, the appellate court reviews the findings of facts and conclusions of law. *See* I.R.C.P. 52(a). These findings of facts and conclusions of law represent the issues that are raised on appeal. Judgment II included findings of facts and conclusions of law relating to the timing and adequacy of the inventory. (R. Vol. I, p. 210, L. 1 & 2). The Appellants had a right to appeal the *Final Judgment* and raise issues on appeal with regards to the adequacy and timing of the inventory. As a result, the District Court's dismissal of this issue was inappropriate.

Judgment II's preudical effect to the Appellants is plainly clear. For example, if Judgment II is an invalid document, then there were no findings of facts and conclusions of law and the Magistrate should have been overturned. However, if Judgment II is a valid document, then the District Court erred in dismissing the Appellants' argument raising the issues of the timing and adequacy of the inventory.

Lastly, the Appellants were prejudiced because Judgment II provided additional findings of facts and conclusions that were not part of the original record. If the Appellants would have been given these findings of facts and conclusions of law before their appeal, the Appellants could have postured the appeal differently and made different arguments. Since the Appellants had no opportunity to adjust their appeal or make new arguments regarding these new issues, it is clear that Judgment II materially prejudiced them.

Judgment II materially prejudiced and affected the substantial rights of the Appellants in the appeal. The Appellants were denied their right to address the findings of facts and conclusions of law that were issued in Judgment II. This affected their ability to make proper arguments on the appeal. Additionally, the District Court's reliance on Judgment II changed the outcome of the appeal as argued above. Therefore, the District Court erred and this Court should respectfully reverse the District Court's decision.

### **III. THE APPELLEES ADMIT THAT THE INVENTORY WAS NOT TIMELY PREPARED AND THE ACCOUNTING WAS INCOMPLETE.**

To further support that the District Court erred in affirming the Magistrate's decision in regards to both the inventory and accounting, the Appellees admit that the inventory was not submitted on time and the accounting was incomplete. (Respondents' Brief p. 27 & 29).

The Appellees now argue that even if the inventory was inadequate and untimely, there was no prejudice to the Appellants. *Id.* However, this is not the standard of review on appeal. The District Court was required to review whether the facts were clearly erroneous or whether the magistrate erred in law. The Magistrate's findings in Judgment II that the personal representatives prepared a sufficient inventory of the property owned by decedent, as required by Idaho Code § 15-3-706 and that the Personal Representatives provided a copy of the inventory of the property owned by the decedent, to the devisees, as required by Idaho Code § 15-3-706 were clearly erroneous. The non-conflicting facts in the record, along with the Appellees' admissions, support the conclusion that the Personal Representatives failed to prepare an inventory within the 90 day period and they failed to file the inventory with the Court or provide a copy to Cindy, Jodi, and John according Idaho Code § 15-3-706.

Even if this Court entertains the Appellees' argument that there was no prejudice created from the delay, the Court would easily recognize that this argument is unsupported. The Appellants objected in writing indicating they needed more information and that the inventory and accounting was incomplete. (R. Vol. I, p. 73). Appellants' counsel argued that the late disclosures of these items along with the incomplete accounting, provided grounds to not close the estate. (TR Vol 1. p. 33). Additionally, Appellants' counsel argued that he needed additional time to prepare his case. *Id.* Nonetheless, the Appellants, with the limited time frame given to them, provided evidence that there were multiple items missing from the inventory. *Id.* at 55-57. Specifically, Appellants testified that there were several items missing from the estate *Id.* These missing items specifically included vehicles. *Id.* Unfortunately for them, the Magistrate punished Cindy, Jodi, or John, and held that they should have searched those titles on their own

and should have prepared better. *Id* at 78. However, the Appellants didn't realize that the items were missing from the estate until they were given the final inventory at the hearing. At this point it was too late to go search for the titles. The delay in preparation and distribution prejudicially led to the Magistrate punishing them for lack of preparation. Additionally, the Appellees were granted administration fees for the preparation of this inventory. *Id* at 222. Since the Appellees failed to properly conduct the inventory adequately and in the timeframe of Idaho Code § 15-3-706, the Appellees should not have been granted these fees.

The Appellees further argue that the Appellants remedy is not clear and this Court should deny the appeal. (Respondents' Brief p. 28). However, this is unfounded. According to their argument in *Losser*, this Court is bound to either affirm or reverse the District Court's decision. The Appellants have requested that the Court reverse the District Court by (1) remanding the case back to the Magistrate to conduct new findings of facts and conclusions of law, (2) remand the case back to the Magistrate because it's findings of fact that the inventory was conducted adequately and timely according to Idaho Code § 15-3-706 was clearly erroneous, and (3) the Magistrate erred in law. Obviously, if this Court reverses the District Court on either fact or law and remands the case back to the Magistrate the court will have to conduct a rehearing in determining what losses or if any losses were caused by the Personal Representatives late disclosures and whether if the Personal Representatives should be given their fees in regards to the inventory.

The non-conflicting facts and the Appellees' admissions prove that an inventory was not completed according to Idaho Code § 15-3-706. This Court has remedies to clean up the errors made by the District Court. Therefore, this Court should reverse the District Court's decision

which affirmed the Magistrate's holding that the inventory was properly completed and conducted according to Idaho Code § 15-3-706.

Not only do the Appellees admit that the inventory was inadequate and untimely prepared, the Appellees admit that the accounting was never completed and mistakes were made. (Respondents' Brief p. 29). Appellees again argue that the failure to complete the accounting and the mistakes made within the accounting are harmless. *Id.* Additionally, the Appellees argue that the Magistrate's exercise of discretion was proper and sound. *Id.* at 30. However, these arguments are unfounded. Before an estate can be closed the Personal Representatives of the estate must conduct a final account in order to complete the settlement of the estate. *See In re Estate of Spencer*, 106 Idaho 316, 318, 678 P.2d 108, 110. In addition, interested parties have a statutory right to compel the Personal Representatives to make a full accounting before the estate is settled and closed. (Idaho Code § 15-3-1001). This Court has stated, "Idaho Code § 15-1-201(42) provides that "'settlement,' in reference to a decedent's estate, includes *the full process* of administration, distribution *and closing*." (Emphasis added.) "The settlement of an estate consists in its administration by the executor . . . so that nothing remains but to make a final distribution." *See In re Estate of Spencer*, 106 Idaho 316, 318, 678 P.2d 108, 110. In this case a full settlement of the estate was not completed. The non-conflicting facts and the admissions by the Appellees prove that it was not.

The Appellees also argue that the mistakes made by the Personal Representative, Rodeny, were minor and harmless. (Respondents' Brief p. 29-30). The Appellees have inappropriately provided a hypothetical proving that the loss was small. *Id.* However, this hypothetical amount should be dismissed as it was never part of the record. There was no testimony or evidence to

prove that the loss was that minor. (TR. Vol. I (generally)). In actuality, Rodney could not explain the amount of loss because he did not have the documents or provide the documents to the Appellants as part of the final accounting. *Id* at 40. Even today, the Appellants have no idea the actual total amount of loss that was created by Rodney's breach of his duties.

In addition, the Appellees' argument that the Magistrate exercised proper discretion in closing the estate is unfounded. (Respondents' Brief p. 30). On appeal the District Court was required to review this issue under a clearly erroneous or a de novo standard. The review was not supposed to be conducted under an abuse of discretion standard. The non-conflicting facts along with the Appellees' admissions prove that the final account was incomplete and had mistakes. The Magistrate's findings to approve the final accounting are clearly erroneous. The District court erred in affirming the Magistrate's decision on the accounting and should be reversed.

Additionally, the Magistrate's conclusions of law relating to the accounting seem to be as follows; if the accounting is partially complete and has only minor errors then the estate may be closed. (TR. Vol. I, p. 300, L. 8-12: 78). This conclusion of law is an error. The law is clear that an estate cannot be settled until everything has been fully completed. *See In re Estate of Spencer*, 106 Idaho 316, 318, 678 P.2d 108, 110. This means that the accounting has to be completed by the Personal Representatives before the closure of the estate. Further, if any interested party demands for a full account of the estate, then the Personal Representatives must produce the full account before the estate is closed. *See Idaho Code § 15-3-1001*.

As a result, the Magistrate erred in both fact and law when it closed the estate without a proper and complete accounting. The District Court erred in affirming the Magistrate's decision. Therefore, this Court should reverse the District Court and remand this case back to the

Magistrate to allow a full accounting to be completed and allow the Appellants the proper timing to assess any losses and prepare their case against the Personal Representatives.

The District Court and the Appellees both confirm that five written objections were raised at the final hearing. (Respondents' Brief p. 29, *see also* R. Vol. I, p 69-70). This Court has stated, "We hold that where objections are raised to an accounting and report in the administration of a decedent's estate and a contested hearing is held concerning those objections, the court must, under I.R.C.P. 52(a), make findings of fact and enter conclusions of law in respect to the objections and the account." *See In re Estate of Spencer*, 106 Idaho 316, 321 (Idaho Ct. App. March 13, 1984). Although the Appellees made the argument that the District Court addressed the objections, the Magistrate never made any specific findings to any of the written objections raised. (Respondent's Brief p. 29, *see also*, TR. Vol. I, p. 297-306: 78-80).

The District Court erred in affirming the Magistrate's decision that a complete and reasonable accounting was conducted by the Appellees. The Magistrate never made any specific findings to the written objections raised by the Appellants. Furthermore, if the March 27th, 2017 record does satisfy the requirements of findings of facts and conclusions of law, these findings were clearly erroneous and contained errors in law. Therefore, this Court should reverse the District Court and remand this case back to the Magistrate.

**IV. APPELLEES ADMIT THAT AN ABUSE OF DISCRETION STANDARD SHOULD NOT HAVE BEEN APPLIED IN DETERMINING THE INVENTORY AND ACCOUNTING AND REASONABLE SALE OF THE PROPERTY.**

In the Appellants' opening brief, Appellants argue that the District Court erred when it applied an abuse of discretion standard in reviewing whether the Magistrate erred in its findings of facts and conclusions of law relating to inventory, accounting, and reasonable sale of the

home. (Appellants' Brief p. 15-17). The Appellees in their response agreed and state, "Simply stated, we agree the "abuse of discretion" standard has no application to a trial court's findings of fact." (Respondents' Brief p. 310). The Appellees' brief then goes on to make arguments about the Magistrate's discretion in determining facts or discretion in applying the facts to the law. *Id.* This argument misses the main point of the Appellants' argument and most of the Appellees' argument is irrelevant. The Appellants' argument argues that the District Court applied the wrong standard of review, not that the Magistrate exercised improper discretion relating to the inventory, accounting, and reasonable sale of the home.

Furthermore, the Court of Appeals has emphasized how important it is for Courts to apply the right standard of review. The Appeals Court asserted that:

Standards of review balance the power among the courts, enhance judicial economy, standardize the appellate process, and give the parties in a lawsuit an idea of their chance of success on appeal. All of these policies are interconnected. And, when appellate court judges use standards of review faithfully and consistently, these principles are upheld. An examination of the policies underlying standards of review leads to an appreciation of their role in judicial decision making and an appreciation of the significant negative effect brought about when they are misunderstood, manipulated, or ignored.

*State v. Islas*, 443 P.3d 274, 284 (Idaho Ct. App. 2019) (Citing Amanda Peters, *The Meaning, Measure, and Misuse of Standards of Review*, 13 Lewis & Clark L. Rev. 233, 238 (2009) "[W]hen used properly, standards of review require appellate judges to exercise self-restraint." *Id.* at 284.

The District Court applied the abuse of discretion standard to the trial court's Findings of Facts and Conclusions of Law regarding the inventory, accounting, and reasonable sale of the home. (Appellants' Brief p 15-17, *see also* R. Vol. I, p. 229 & 248). This was reversible err.

Since the District Court erred by applying the wrong standard, this Court should respectfully reverse its decision.

**V. THE APPELLEES ADMIT THAT THE COURT PLACED TIME CONSTRAINTS AT HEARING WHICH LIMITED THE ABILITY TO CALL WITNESSES.**

The Appellees argue that the Magistrate Court did not exclude any witnesses, but instead argue that the Court did place time restraints at the hearing which caused some witnesses to be excluded. (Respondents' Brief p.36). In essence the Appellees are arguing semantics. Whether the Magistrate specifically ordered an exclusion of the witnesses or limited the timing of the hearing which then excluded witnesses, the effect was the exact same thing. Again the exclusion of the witnesses were directly tied to the Co-Personal Representatives failure to complete the inventory and accounting. Appellees agree and cite to the same findings in which the Appellants cite in their opening brief that supports the Magistrate's decision to deny the continuance and exclusion of witnesses. (Respondents' Brief p. 36-37, *see also* Appellants' Brief p. 20). The Magistrate rationale for denying the continuance and hearing was all based on criticizing the Appellants by not conducting discovery, subpoenaing bank records, or calling expert witnesses. (TR. Vol. I, p. 300-301: 78-79). This rationale was unfair and unreasonable. The Magistrate criticized the Appellants even when they did not have a duty to perform those items but then gave the Personal Representatives a pass even though they failed to perform their statutory obligations. Furthermore, all the parties desired to call Mark Call as a witness and made it known to the Magistrate. *Id.* at 34. Moreover, all the parties requested that the Court continue the hearing because of the untimely disclosure of the inventory and incompleteness of the accounting. *Id.* The Court under these circumstances should have allowed the parties more time

to prepare for the final hearing and granted the continuance. The Magistrate abused its discretion. Therefore, the District Court erred in affirming the Magistrate Court and its decision should be reversed.

**VI. THERE ARE CLEAR FACTS AND EVIDENCE TO SUPPORT THAT THE SALE WAS UNREASONABLE.**

The Appellees argue that no admissible evidence was offered or admitted to explain why the sale price was less than the appraisal price and therefore the sale was reasonable. (Respondents' Brief p. 38). This argument is unfounded. The Appellants in their opening brief cite multiple non-conflicting facts that were testified to at trial which support that the sale was unreasonably sold. (Appellants' Brief p. 23-24).

The Appellees also argue that the Personal Representatives did not cause any loss from the sale because there were numerous potential explanations as to why Mr. White did not complete the loan process. (Respondents' Brief p. 39). This argument is again unfounded. John White II specifically stated, "They said that my loan wouldn't apply to that property, that, in order for--it was an FHA loan-- for that type of loan to be applied to that property, that the people selling it would have to deem it as real property. It was a trailer home." (TR. Vol. I, p. 199-200, L. 23-25: 53). This evidence directly contradicts the Appellees assertions that there were no facts presented to prove why John II's financing was turned down.

The Appellees further raise multiple questions with respect to the property about whether the mobile home could have been converted into real property. (Respondents' Brief p. 39). However, these questions raised are irrelevant. The evidence is non-conflicting that the Personal Representatives were informed that they could have changed the title of the property into real property. (TR. Vol. I, p. 154-155, L. 13-1: 42). They admitted that they were informed and did

nothing to change the title. *Id.* They had an offer from John White II for \$65,00. *Id.* at 51 & 53. This was \$15,000 more than the offer they accepted. This offer failed because of the nature of the title not because John White II did not qualify. The Personal Representatives did not act within the best interest of the estate and did not make the necessary steps to increase the value of the estate. In actuality, by not acting it led to a direct loss to the estate.

Finally, the Appellees just like the Magistrate and District Court, argue that the Appellants should be blamed for the lack of evidence produced at the trial court even though the Appellees failed to perform their own duties. (Respondents' Brief p. 40). Again this argument does not have anything to do in determining whether the sale was reasonably sold. This argument supports the Appellants' original argument that the Magistrate Court erred by not conducting findings of facts and conclusions of law in determining that the sale was reasonable. The only findings and conclusions are that the Appellants should have procedurally done something more. (Appellants' Brief p. 22-24).

The Magistrate failed to make any findings of facts and conclusions of law that the sale of the property was reasonably sold. However, if this Court finds that the March 27, 2017 hearing record contains findings of facts and conclusions of law then those findings are clearly erroneous. The facts clearly support that the sale of the home was unreasonably sold. Furthermore, the law applied to conclude that the sale was reasonable was a clear error. The Appellants respectfully requests that the Court reverse the District Court decision affirming the Magistrate's findings that the sale was reasonably sold.

**VII. THE APPELLEES DID NOT CLAIM ATTORNEY FEES PURSUANT TO IDAHO CODE 12-121 ON THE APPEAL FROM THE MAGISTRATE TO THE DISTRICT COURT.**

The Appellees argue that they made a claim for attorney fees on appeal from the Magistrate Court to the District Court. This is incorrect. The Appellants cited the Appellees entire attorney fee section in their briefing. (Appellants' Brief p. 25-26). In that section the Appellees actually argue against citing Idaho Code § 12-121. *Id.* They wrongly determined that Idaho Code § 12-121 was the old law in claiming fees under a probate case. *Id.* They asserted that Idaho Code § 15-8-208 was the new law and the new way in asserting fees. *Id.* However, the Appellees failed to analyze that Idaho Code § 15-8-208 can only be asserted for fees when TEDRA is invoked. *See Quemada v. Arizmendez*, (In re Estate of Ortega, 153 Idaho 609, 288 P.3d 826 (2012), *see also* R. Vol. I, p. 268-269. The District Court held that TEDRA was not invoked in this case and denied the Appellees fees under this statute. (R. Vol. I, p. 288).<sup>1</sup> This Court has held that even if Idaho Code § 12-121 was cited, it must be accompanied by an argument and request. *See Bagley v. Thomason*, 149 Idaho 799, 805, 241 P.3d 972, 978 (2010), *Pocatello Hosp., LLC v. Quail Ridge Med. Inv'r, LLC*, 156 Idaho 709, 721, 330 P.3d 1067, 1079 (2014). Although the Appellees can argue that Idaho Code § 12-121 was actually cited in the brief through a case they copied and pasted, they cannot genuinely assert that they made a request for fees under Idaho Code § 12-121.

Additionally, the Appellees cite sections of the District Court's *Decision and Opinion* to support that he conducted findings of facts and conclusions of law in an analysis for attorney fees. (Respondents' Brief p. 43-45). However, the District Court granted fees pursuant to Idaho Code § 12-121 on the Petition for Rehearing. (R. Vol 1, p. 287-289). The District Court failed to issue any findings of facts or conclusions of law. *Id.* The Appellees' citations of the District

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<sup>1</sup> This is not an issue on this appeal.

Court's *Decision and Order* to support that the appeal was pursued frivolously, unreasonably, and without foundation is their own rationale and not the District Courts. Furthermore, the Appellees' argument fails to even address that the Appellants actually prevailed in part.

Pursuant to the arguments raised above, the District Court erred in granting the Appellees fees pursuant to Idaho Code § 12-121 and its decision should be reversed.

### **CONCLUSION**

The District erred in affirming that the Magistrate issued findings of facts and conclusions of law; applying the wrong standards of review; affirming that the Magistrate did not err in either fact or law relating to the inventory, accounting, or the reasonable sale of the home; and affirming that the Magistrate Court did not abuse its discretion in denying the continuance and excluding witnesses. Therefore, the Appellants respectfully request that this Court reverse the District Court's decision and implement the proper remedies to remedy the errs

**CERTIFICATE OF SERVICE**

I HEREBY certify that a copy of the foregoing *Appellants' Reply Brief* was served on the following named person(s) in the manner indicated.

Dwight E. Baker  
Baker & Harris Law Office  
266 West Bridge St.  
Blackfoot, ID, 83221

- U.S. Mail
- Facsimile:
- Hand Delivered
- Efile/ICourt

DATED this 7th day of May, 2020.

MAY, RAMMELL & WELLS, CHTD  
*Counsel for Appellants*

/s/ Kyle R. May  
KYLE R. MAY